

AGENDA SUMMARY PAGE - PLANNING & DEVELOPMENT
CITY COUNCIL MEETING OF: DECEMBER 16, 2009

DEPARTMENT: PLANNING & DEVELOPMENT

DIRECTOR: M. MARGO WHEELER

☐ Consent ☒ Discussion

SUBJECT:

SUP-35891 – ABEYANCE ITEM - SPECIAL USE PERMIT - PUBLIC HEARING -
 APPLICANT: LEE'S DISCOUNT LIQUOR - OWNER: THOMSON SUMMERLIN
 HOLDINGS, LLC – Appeal filed from the denial by the Planning Commission of a request for a
 Special Use Permit FOR A 10,565 SQUARE-FOOT PACKAGE LIQUOR OFF-SALE
 ESTABLISHMENT at 780 South Rampart Boulevard (APN 138-32-312-002), PD (Planned
 Development) Zone, Ward 2 (Wolfson). The Planning Commission (6-1 vote) and staff
 recommend DENIAL

PROTESTS RECEIVED BEFORE:

Planning Commission Mtg.

20

City Council Meeting

18

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

32

City Council Meeting

9

RECOMMENDATION:

The Planning Commission (6-1 vote) and staff recommend DENIAL.

BACKUP DOCUMENTATION:

1. Location, Aerial and Special Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letter
6. Appeal Memo filed by Hae Un Le (Lee's Discount Liquor)
7. Protest/Support Postcards
8. Submitted after Final Agenda – Protest Letter by Galvan Wesley L.
9. Submitted at Meeting – Letters from Opportunity Village, the Las Vegas Metropolitan Police Department, Spread the Word Nevada: Kids to Kids, Catholic Charities, and PHD Properties by Attorney Chris Kaempfer
10. Submitted after Meeting – Recordation Notice of Council Action and Conditions of Approval
11. Backup referenced from the November 5, 2009 Planning Commission Meeting Item 23

Motion made by STEVE WOLFSON to Approve subject to conditions

Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 1; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, STEVE WOLFSON, GARY REESE, STEVEN D. ROSS, STAVROS S. ANTHONY; (Against-None); (Abstain-None); (Did Not Vote-OSCAR B. GOODMAN); (Excused-None)

NOTE: COUNCILMAN BARLOW disclosed that MR. LEE has sponsored a scholarship for an event he was involved in, but that would not preclude him from participating.

CITY COUNCIL MEETING OF: DECEMBER 16, 2009

Minutes:

MAYOR GOODMAN declared the Public Hearing open.

ATTORNEYS CHRIS KAEMPFER and TOM AMICK appeared on behalf of Lee's Liquor with MR. LEE. He noted that special use permits require consideration of the applicant as well as the application. He summarized MR. LEE'S 30-year history as a fine businessman with 15 locations. MR. LEE also believes in giving back to the community, supporting Opportunity Village, Metro, the University of Las Vegas Nevada (UNLV), Spread the Word Nevada – Kids for Kids, Public Education Foundation and Catholic Charities. There is no better applicant.

In addressing the application, this pad is the closing Milton Homer store. The staff finding is that this location is appropriate and will not adversely impact the community. However, staff recommended denial because of the existing three package liquor businesses. Despite great respect for City staff, ATTORNEY KAEMPFER disagreed with their finding. The existing package liquor stores are not the same type of business as MR. LEE'S. The proper manner to address over saturation would be to pass an ordinance for a distance separation. Next, the Longs Drug Store has closed, reducing the number of package liquor stores in the area.

There have been comments made because the landlord apparently wants the pad back. To address the allegations, there will be no on-premise consumption and no adult material in this new or existing stores. The name Discount Liquor will not diminish or adversely reflect on the Boca Park. However, MR. LEE has agreed to call this location Lee's Liquor. The assertion was made that undesirables would use this business. Demographics reflect that most users come from within a two-mile radius.

ATTORNEY KAEMPFER read a letter from PHIL DAVIS, a managing member of Shadow Hills Plaza, describing his pleasure at having MR. LEE as a tenant in the shopping center. At a neighborhood meeting attended by 14 people, only three objected to the liquor store.

COUNCILMAN BARLOW asked for clarification regarding a license issued on 11/1/2000 for package liquor at 800 South Rampart Boulevard. MARGO WHEELER, Director of Planning and Development, replied that that was the Longs Drugstore and that business is no longer there. She also confirmed the report that the majority attending the neighborhood meeting supported the application.

ATTORNEY KAEMPFER discussed with COUNCILMAN BARLOW that the other closest liquor business is Total Wine, also approved in Boca Park.

ANTHONY HODGES stated that MR. LEE is a fine businessman who should be treated right.

RAYMOND KADAGIAN stated he attended the neighborhood meeting and heard concerns with increased crime, undesirables, etc. He shops for value and variety and MR. LEE'S business offers that. He has shopped there for eight years. Staff is helpful, managers knowledgeable and there is no crime or drinking on site. He urged the license be granted to this welcome addition. Competition is good for the consumer and will add to the tax base. This is a nice area and a convenient location for him.

CITY COUNCIL MEETING OF: DECEMBER 16, 2009

JAMES GRINDSTAFF, 9440 West Sahara Avenue, appeared on behalf of Boca Park Marketplace. There are no issues with MR. LEE, but as a landlord, there is a concern with the profits for Von's. It would be legal to put in numerous liquor uses, but that would not be a good business decision. He discussed with COUNCILMAN REESE that he would not protest the competition of another barbershop in his center even though he would not be happy.

MR. GRINDSTAFF pointed out the number of grocery stores that have closed and Boca Park's desire to support all its tenants. Both the Planning Commission and staff recommended denial. Management at Boca Park has done an excellent job of maintaining the balance between competition and occupancy of the Park. He requested the Council assist management in that.

COUNCILMAN REESE confirmed that MR. LEE purchased the pad and Boca Park does not own it. He confirmed with MR. GRINDSTAFF that the intent is not to purchase the building, just opposition to the proposed use.

MAYOR GOODMAN noted that the term over saturation is based on neighborhood impact and not as to business competition. DEPUTY CITY ATTORNEY JAMES LEWIS added that there is a Nevada Supreme Court ruling that competitors have no standing.

RICHARD PORTERO stated that the land was purchased without being the usual conditioned purchase based on approval of this special use permit. He noted the number of centers where anchors are going out of business. Both staff and the Planning Commission recommended denial. COUNCILMAN REESE rebutted that even without competition the grocery stores have closed in his area.

COUNCILMAN WOLFSON clarified with MS. WHEELER that the over saturation was based on the entitlement of Longs and not whether or not the business was open. The determination also considered the permits, but one of those is no longer operating.

MAMAD NEVICE, owner of Pasha, spoke in support of the Lee's commercial and quality businesses, but there are too many liquor outlets in the vicinity. Some of his clients are concerned as well. As a small business owner, he worries about transients in this upper scale portion of Boca Park. COUNCILMAN WOLFSON pointed out that patrons of this Lee's Liquor would most likely be from Queensridge and that vicinity.

COUNCILMAN BARLOW discussed with MS. WHEELER the evaluation of a use. She related that Longs was only one of the many facilities considered. Although Longs has left, there are other businesses existing in the vicinity and this is another liquor store moving into Boca Park.

JOHN MASSI, Senior Vice President, Triple Five, acknowledged MR. LEE as a wonderful businessman and he would support another use. The Party Store may leave and liquor could go back into the building. Boca Marketplace has all types of businesses, including discount type uses. However, Boca Fashion would not approve a Target in its other, higher-end fashion portion. He has developed and managed many centers. As a matter of good faith and honor, he would not put a barber shop in adjacent to COUNCILMAN REESE'S shop. When Total Wine was approved, it was after a lot of research, especially given its business structure and square footage.

CITY COUNCIL MEETING OF: DECEMBER 16, 2009

MAYOR GOODMAN appreciated his perspective, but Boca Park does not control this pad. There is a risk in competing and MR. LEE is willing to take that risk.

MS. WHEELER clarified that the Longs property Special Use Permit is in place through 1/28/2010. The window for another business to apply for the location is basically closed. COUNCILMAN WOLFSON noted that that means the saturation issue is lessened.

MARGARET ANN COLEMAN urged that liquor stores should be omitted in cities.

ATTORNEY KAEMPFER rebutted that the change in the County code that a barrier between uses would correct an inequity and distance would be measured as actual travel distance. The comments to protect Von's is questionable when there was no concern with competition by Total Wine. Distance separations should be established by ordinance. Staff found Total Wine appropriate when there was only a Von's and Longs. Longs is gone so the same number of package liquor stores still exists.

COUNCILMAN ANTHONY acknowledged that there are many empty buildings and it would appear to be a good thing that someone wants to move into one of them.

COUNCILMAN WOLFSON thanked everyone participating. He had a townhall meeting as well as several meetings in his office to listen to each perspective. He did not feel it was his or the Council's place to make a determination between them based on competition. He is familiar with the specialty stores and the free-standing building on this pad, which is separated from those stores. MR. LEE and ATTORNEY KAEMPFER confirmed that the building will not change. COUNCILMAN WOLFSON also confirmed the number of employees anticipated as well as no consumption on premise.

COUNCILMAN WOLFSON pointed out the issue of applying the over saturation concern to other uses such as clothing, fast food, etc. He expressed appreciation that the word Discount will be eliminated as well as the elimination of adult materials from all stores. The City is in the deepest recession with too many dark sites and it is not the time to discourage businesses. However, he would make the same findings regardless of the applicant because this use is harmonious and appropriate. The more competition and foot traffic the better.

COUNCILMAN BARLOW shared for the record that MR. LEE has been a good partner to the NAACP who support his application.

COUNCILMAN WOLFSON concluded that the proposed use can be conducted in a manner that is harmonious and compatible with existing and future surrounding land uses, that there is not an over saturation of alcohol uses in the area, the site is appropriate, that the streets and highways are adequate for access and approval will not be inconsistent with or compromise the public health, safety and welfare or the overall objectives of the General Plan. Lastly, Planning Commission sees a snapshot, but a lot more work has been done since then and the final determination is by Council.

MAYOR GOODMAN declared the Public Hearing closed.